

RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT AND SUPPLEMENTAL  
AMENDMENT UNDER 37 C.F.R. § 1.111

Application No. 09/904,566

Attorney Docket No.: Q63227

**REMARKS**

Reconsideration and allowance of the subject application are respectfully requested.

Claims 2-16 are pending in the application. Applicant respectfully submits that the pending claims define patentable subject matter.

Claims 2, 3 and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wils et al. (USP 6,397,260; hereafter “Wils”) in view of Erekson et al. (USP 6,836,862; hereafter “Erekson”). Claims 4 and 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over van Wils in view of Erekson and Lynch et al. (USP 5,586,338; hereafter “Lynch”). Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Wils in view of Johansson (USP 6,975,613). Claims 8 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wils in view of newly cited Osada et al. (USP 6,111,889; hereafter “Osada”). Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Wils in view of Osada and Ying (USP 6,061,600). Claims 10-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wils in view of Osada, Ying, Akyol et al (US 6,701,448; hereafter “Akyol”) and “Official Notice”. Claims 15-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wils, Osada and Erekson. Applicant respectfully submits that claims 2-16 would not have been rendered obvious in view of the Examiner’s proposed combination of the cited references.

**A.      Claims 2-7**

In the Amendment filed January 18, 2006, Applicant argued that independent claim 3 would not have been rendered obvious in view of Wils and Erekson because Erekson does not provide any teaching or suggestion which would motivate one of ordinary skill in the art to

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modify Wils to determine a priority of at least one of the plurality of slaves to be used as a backup master, when a network master disappears, according to signal strength indication (RSSI) and/or link quality information received from the at least one of the plurality of slaves. In particular, the mere fact that Erekson merely discusses the use of RSSI in wireless devices (which is well known in the art) does not provide any motivation or suggestion to determine a priority of at least one of the plurality of slaves to be used as a backup master, when a network master disappears, according to RSSI received from the at least one of the plurality of slaves. Moreover, RSSI is not a parameter which would be used in a wired network such as Wils' network.

In the present Office Action, the Examiner did not specifically respond to Applicant's arguments regarding the lack of motivation to modify Wils based on Erekson. Instead, the Examiner discusses to the alleged motivation to modify Wils based on Lynch (see Office Action at page 17, lines 1-5).

However, the Examiner again takes the position that claim 8 does not require determining a priority of at least one of the plurality of slaves to be used as a backup master based on RSSI and/or link quality information. In particular, the Examiner asserts that "since the claims does not indicate what device is determining the priority, Wils' teaching of broadcasting priority to each other slaves and having each slave comparing all received priority with its own reads on the current claim language." The Examiner further asserts that "[t]he claims, at most, claimed to include RSSI and/or link quality information in the connection information, but fails to define that the RSSI and/or link quality information is used for determine slave priorities. Determining priority bas[ed] on connection information (which includes RSSI and/or link quality) does not

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necessary[ily] conclude that the priority is determined based on RSSI. It is also possible that the priority is determined based on information other than RSSI/link quality that is included in the connection information.”<sup>1</sup>

Although Applicant does not necessarily agree with the Examiner’s position, claim 3 has been amended to further clarify the claimed invention by expressly reciting that “determining a priority of said at least one of the plurality of slaves to be used as a backup master, when a network master disappears, according to at least one of the RSSI and the link quality information included in the received connection information.” Further, claim 8 has been amended to recite “announcing the determined priority to at least another one of the plurality of slaves prior to the network master disappearing.” Applicant respectfully submits that it is quite clear that the claimed method is patentably distinguished from the combination of Wils, Erekson and/or Lynch.

As previously noted, none of the references discloses “determining a priority of said at least one of the plurality of slaves to be used as a backup master, when a network master disappears, according to at least one of the RSSI and the link quality information included in the received connection information.” In particular, Erekson merely discusses the use of RSSI in wireless devices (which is well known in the art) and does not provide mention determining a priority based on RSSI.

Lynch merely discloses a cellular telephone system in which priority of selective service provider acquisition during roaming is given to those service providers associated with the home

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<sup>1</sup> Office Action at page 16.

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service provider and identified by System Identification (SIDs) numbers, wherein the priority can be based upon RSSI or other system characteristics of the service provider. Nowhere does Lynch teach or suggest determining a priority of slaves to be used as a backup master, when a network master disappears, according to RSSI (or link quality information) included in the connection information received from the slaves. Moreover, RSSI is not a parameter which would be used in a wired network such as Wils' network.

Accordingly, Applicant respectfully submits that neither Erekson nor Lynch provides any teaching or suggestion which would motivate one of ordinary skill in the art to modify Wils to produce the claimed invention. Thus, the Examiner is requested to withdraw the rejection of claims 2-7.

**B. Claims 8-16**

With regard to independent claims 8 and 14, the Examiner asserts that Wils discloses all of the features of the claimed invention except for the rank assigned to the slave is assigned by the preexisting network master, which the Examiner asserts is disclosed by the newly cited Osada reference at col. 2, lines 37-53. The Examiner further asserts that “[i]t would have been obvious to ... combine the teachings of Wils and Osada because Osada’s teaching of the network master assigning slave rankings enables Wils’ method to rank the priority of the back master orders by the original master based on the slaves requesting status requesting status signal.”

Independent claim 8 recites in part:

(b) if the preexisting network master has disappeared, checking a rank assigned to the slave by the preexisting network master which determined the rank based on connection

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information received from the slave by the preexisting network master, wherein the rank is used for choosing a new network master and is received before the disappearance of the preexisting network master.

Similarly, independent claim 14 recites in part:

(b) checking backup master rank information which is assigned to the slave by the preexisting network master which determined the backup master rank information based on connection information received by the preexisting network master from the slave, when it is determined that the preexisting network master has disappeared in the step (a).

Applicant submits that it is quite clear that Wils and Osada, alone or in combination, do not teach or suggest these features of claims 8 and 14. In particular, nowhere does Wils teach or suggest that the preexisting network master determines and assigns a rank assigned to a slave based on connection information received from the slave. Instead, Wils' discloses that when a Master router is unavailable, the routers broadcast their own Advertisement messages and compare the priorities of broadcast Advertisements with their configured priorities such that the router having the highest configured priority for each Virtual Router assumes Master status for that Virtual Router, and the other routers assume Backup status (see column 5, lines 51-54 and column 6, lines 57-63 of Wils).

Osada discloses a system for data communication between a master station and a plurality of slave stations, wherein the master station may include a prioritizing device for controlling data transmission by selecting one of a plurality of status signals from respective slave stations and assigning a corresponding one of the plurality of slave stations a priority transmission based on a selected one of the status signals. Nowhere does Osada teach or suggest

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that the preexisting network master determines a rank used for choosing a new network master or backup master rank information based on connection information received from the slave by the preexisting network master. That is, Osada determined priority is not related or even relevant to selection of a backup or new network master but instead indicates an order for transmission among the slaves.

In addition, Ying and Akyol do not teach or suggest this feature of the claimed invention which is missing from Wils and Osada.

Further, one of ordinary skill the art would not have been motivated to modify Wils based on Osada to produce the claimed invention. The Examiner's purported motivation is clearly improper on its face since it is a perfect example of circular reasoning (i.e., it would have been obvious to something in order to do it). That is, the Examiner alleged motivation "because Osada's teaching of the network master assigning slave rankings enables Wils' method to rank the priority of the back master orders by the original master based on the slaves requesting status requesting status signal" does not provide any objective reason or address why one skilled in the art would have been motivated to modify Wils based on Osada.

Accordingly, claims 8 and 14, as well as dependent claims 9-13, 15 and 16, should be allowable over Wils, alone or in combination with Osada, Erekson, Ying and/or Akyol.

Lastly, Applicant has amended dependent claims 15 and 16 in a manner similar to claim 1 by reciting "the preexisting network master determined the (backup master) rank based on at least one of the received signal strength indication (RSSI) and the link quality information." Applicant submits that the cited references do not teach or suggest this feature of the claims.

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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Christopher R. Lipp  
Registration No. 41,157

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

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